

रजिस्टर्ड नं० सी० 461.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 5 दिसम्बर, 1973/14 अग्रहायण, 1895

GOVERNMENT OF HIMACHAL PRADESH ELECTION DEPARTMENT NOTIFICATION

Simla-2, the 17th November, 1973

No. 4-15/71-Elec.—In exercise of the powers conferred by section 249 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970), the Governor, Himachal Pradesh is pleased to make the following rules entitled as the Himachal Pradesh Nyaya Panchayat (Election) Rules, 1973, the same having been previously published in the Official Gazette.

RULES

PART I

- Short title and commencement 1. (1) These rules shall be called the Himachal Pradesh Nyaya Panchayat (Election) Rules, 1973.
(2) They shall come into force at once.
- Definitions 2. (1) In these rules, unless there is anything repugnant in the subject or context:—
(a) "Act" means the Himachal Pradesh Panchayati Raj Act, 1968 (Act 19 of 1970);
(b) "authorised officer" means a person appointed by the Deputy Commissioner to preside over the meeting referred to in sub-section (4) of section 195 of the Act and to perform such other functions as may be assigned to him under these rules;
(c) "Director of Elections (Local Bodies)" means any person appointed by the State Government to perform the functions of the Director of Elections (Local Bodies) for the purpose of these rules;
(d) "election" means the election of a Nyaya Panch including that of a Sarpanch or Naib-Sarpanch of a Nyaya Panchayat;
(e) "elector" means a sitting panch of the Gram Panchayat of a Gram Sabha enlisted in the list of electors prepared to fill a seat of a Nyaya Panch;
(f) "electoral roll" means a list of electors prepared by hand, typed or cyclostyled for the conduct of Nyaya Panchayat Election in the form appended to these rules;
(g) "form" means a form appended to these rules; and
(h) "section" means the section of the Act.
(2) All other words and expressions used, but not defined, in these rules shall have the meanings assigned to them in the Act.

PART II

ELECTION OF NYAYA PANCHES

- Convening of a special meeting 3. As soon as a district is divided into circles and Nyaya Panchayats are established under section 194 of the Act, the Deputy Commissioner, shall call upon every Gram Panchayat to elect a Nyaya Panchayat and prescribe for each circle a specific date before which the elections shall be completed and shall fix the date, time and place for holding a special meeting and direct the Pradhan to issue a notice to call for such a meeting of the Gram Panchayat for election of a Nyaya Panchayat. Such a meeting shall be presided over by the authorised officer appointed by the Deputy Commissioner for this purpose:

Provided that no such special meeting shall be held unless 48 hours' notice for holding such a meeting has been given to all the electors by its delivery at their ordinary place of residence, specifying in it the place, date, time, and the purpose for holding such a meeting.

- Appointment of authorised Officer. 4. The Deputy Commissioner, shall appoint any person as authorised officer to hold elections of Nyaya Panchayat in the **special meeting** of Gram Panchayat under the provisions of sub-section (4) of section 195 of the Act. Such an officer shall make all arrangements required for the purpose and ensure the conduct of elections under his own supervision in accordance with the procedure laid down in these rules.

5. The electoral roll in Form I, shall be prepared in Hindi in Devnagri script for the election of Nyaya Panches. One copy of such an electoral roll shall be authenticated by the Deputy Commissioner or any other officer appointed by him for the purpose, for use as the working copy of the electoral roll for the conduct of Nyaya Panchayat election. A copy of the electoral roll shall be made available for free inspection in the office of the Gram Panchayat from the date of the issue of the notice of meeting for holding election of Nyaya Panches till the date of such a meeting.

Preparation
of Electoral
Roll.

6. Five Panches who are enrolled as electors in the electoral roll prepared under rule 5 shall form a quorum for holding elections to a Nyaya Panchayat in the special meeting of the Gram Panchayat:

Quorum
for special
meeting.

Provided that if the majority of Panches is not present in accordance with the prescribed quorum, no election shall be held and the meeting shall be adjourned to a next date to be fixed by the Deputy Commissioner on the report of the authorised officer, which will be sent by him immediately after the adjournment of such meeting.

7. The Director of Elections (Local Bodies), shall specify by notification in the Official Gazette symbols for allotment in the election, where poll is taken:

Symbol

Provided that no symbol which has been prescribed by the Election Commission of India shall be specified in that notification.

8. A ballot box capable of being locked shall be used during election under these rules:

Type of
Ballot Box.

Provided that the Director of Elections (Local Bodies) may prescribe one or more types of the ballot box to be used at such election.

9. (1) Every ballot paper at an election shall be of such design as the Director of Elections (Local Bodies) may prescribe.

Ballot
Papers.

(2) The required number of ballot papers to each authorised officer appointed for Nyaya Panchayat election shall be supplied against proper receipt and a proper account of the ballot papers so issued shall be kept.

(3) The authorised officer shall keep an account of the ballot papers supplied to him for the use at the election of Nyaya Panchayat in the form as may be prescribed for this purpose which will be rendered by him to the Deputy Commissioner or the person appointed by him for this purpose.

10. At every election where a poll is taken, voting shall be by secret ballot and under the balloting system of voting:

Method of
Voting.

Provided that votes shall be cast in person and shall not be received by proxy.

11. No person other than such persons whose names are for the time being entered in the electoral roll prepared for Nyaya Panchayat election shall be entitled to cast his vote.

Right to
Vote.

12. The Deputy Commissioner, shall provide for each Gram Panchayat, sufficient number of ballot boxes, ballot papers, electoral roll prepared for Nyaya Panchayat, material for voting compartment and such other election material, as may be required at an election.

Material to
be supplied

13. No person who is not a member of the Sabha and/or who, is not disqualified for being chosen as a Panch under sub-section (5) of section 9 of the Act, shall be entitled to stand for election as or continue to be Sarpanch, Naib-Sarpanch or a Panch of the Nyaya Panchayat.

Disquali-
fications
for the con-
test of
Nyaya Pan-
chayat
Election.

PART III

Procedure of Election to be explained by the authorised officer.

14. On the date, time and place fixed for the meeting, the authorised officer, shall prepare a list of all the Panches including Pradhan present in the meeting and obtain their signatures. After having obtained the signatures, the authorised officer shall countersign the list. Thereafter, the authorised officer shall explain to all the electors present in the meeting, the procedure of election including method of voting and the manner for making proposals of a member of the Gram Sabha for the office of a Nyaya Panch.

Proceedings of meeting.

15. The authorised officer shall cause the proceedings of the special meeting, convened for holding the election, to be recorded in the register maintained under rule 26 of the Himachal Pradesh Gram Panchayat Rules, 1971, on such form as may be prescribed for the purpose. Such proceedings shall be signed by the authorised officer with his remarks, if any, about the conduct of election.

Proposals for candidature.

16. Immediately after the procedure of election is explained, the authorised officer, shall invite proposals for one seat of a Nyaya Panch. The names of candidates proposed shall also be seconded. Each such proposal shall be recorded in the Register of Proceedings alongwith the names of the proposers and seconders:

Provided that no candidate shall be considered to have been duly proposed unless the proposal is seconded by another elector:

Provided further that no elector shall either propose or second more than one name for each seat of a Nyaya Panch:

Provided further that the name of a person who has already been declared elected for a seat of a Nyaya Panch shall not be proposed again for the same Nyaya Panchayat:

Provided further that until the election to fill one seat of a Nyaya Panch is completed, no such proposals for other seats shall be invited.

Scrutiny of proposals.

17. As soon as the proposals for one seat of a Nyaya Panch are received, the authorised officer, shall scrutinise the names of all candidates proposed for being chosen as a Nyaya Panch and verify all such names with the help of the Register of members of Gram Sabha maintained under rule 5 of the Himachal Pradesh Gram Panchayat Rules, 1971, and ensure that no such candidate is disqualified under the provisions of rule 13. After scrutiny the names of all the validly proposed candidates shall be announced by the authorised officer. The objections, if any, shall also be considered and decided by the authorised officer in the manner he deems fit and proceedings recorded accordingly.

Withdrawals of names.

18. A proposer may withdraw his proposal, if he so desires, immediately after the names of validly proposed candidates are announced. The authorised officer after permitting such withdrawals shall record the same alongwith the name of the proposer withdrawing the proposal.

Declaration of result in uncontested Election.

19. If after withdrawal of proposals, there is only one candidate for the office of a Nyaya Panch, the authorised officer shall declare him elected and record such a declaration in the Register of Proceedings.

Preparation of list of contesting candidates and allotment of Symbols.

20. If there are two or more candidates, the authorised officer shall prepare the list of names of contesting candidates in Hindi in Devnagri script and in alphabetical order. Thereafter, the authorised officer shall allot one symbol according to the serial number in the list of contesting candidates out of the approved symbols in accordance with the serial number of such symbols prescribed in the notification under rule, 7. No choice shall be given to select a symbol. Thereafter the names alongwith

the symbols of each candidate shall be announced by the authorised officer for information of all the electors present in the meeting.

21. The authorised officer shall fix exact time for taking and completion of poll for each seat which should as far as practicable be held, and completed on the same day **for all the seats of Nyaya Panches and announce the same in the meeting.**

Time for
start and
completion
of poll.

22. The authorised officer shall cause to provide a voting compartment in side the meeting hall. The voting compartment so provided shall be secured with the help of the material supplied for the purpose, in such a way that an elector may cast his vote secretly. Thereafter, the authorised officer shall paste outside and inside each ballot box a poster containing the symbol allotted to each candidate. A slip containing clearly, hand written, name of the candidate shall also be pasted on the ballot box above the symbol poster pasted outside the ballot box. After preparation of all the ballot boxes of all the contesting candidates in the aforesaid manner, the authorised officer shall close all the ballot boxes in such a way that the slit of each box remains open for inserting ballot papers. Thereafter, all the ballot boxes shall be kept in the voting compartment at a reasonable height. While placing the ballot boxes in the voting compartment, the order of the boxes of the contesting candidates should be from left to right. The symbol posters alongwith the names of each contesting candidates should be visible from the entrance of the voting compartment.

Procedur
before co
menceme
of poll.

23. The authorised officer before the time fixed for the taking of poll shall make arrangements to provide a seat for himself near and outside the voting compartment in such a way that the view of the voting compartment is in no way visible. The authorised officer shall than draw up on an additional sheet of paper seven columns for all the 7 seats of Nyaya Panches to be elected so that the numbers of all the seven ballot papers issued to an elector at seven times for electing seven Nyaya Panches are recorded against each such number of seat at the appropriate time. This additional sheet so prepared shall be pasted on the left hand side of the electoral roll so that only one copy of the electoral roll is used as the working copy for all the seats to be filled in, in the meeting of the Gram Panchayat on one date.

Taking o
poll an
issuance
Ballot
Papers.

The authorised officer shall thereafter enquire the name and other particulars as entered in the electoral roll from the elector coming to receive the ballot paper and after verifying the identity of the elector by the Pradhan, shall record the serial number of ballot paper against the appropriate column of the additional sheet already pasted with the electoral roll. The authorised officer shall keep secret all such numbers recorded by him in the working copy of electoral roll and no other person in the meeting hall where the poll is taken shall note down the serial number of any ballot paper. The authorised officer shall then append his signatures in full on the back of the ballot paper and deliver the ballot paper to the elector. The elector after receiving the ballot paper shall enter the voting compartment and insert the ballot paper through the slit of the ballot box of the contesting candidate for whom he wishes to vote and immediately quit the voting compartment. The authorised officer shall ensure that no elector remains inside more than the time required by him to cast his vote. The authorised officer shall also assist blind or infirm elector, if any, in casting his vote which will be kept secret by him. During the poll as and when necessary, the authorised officer may enter the voting compartment to verify the order of the ballot boxes placed inside as also

to ensure that no tampering has been done by any of the electors. During the course of such a visit inside the voting compartment, the authorised officer shall also see that if any ballot paper has been inserted partly through the slit of any ballot box, he will push such a ballot paper in that box.

24. As soon as the time for completion of poll is over, the authorised officer shall cause to take-out the ballot boxes from the voting compartment and after showing to the electors that the ballot boxes have not been tampered with and are intact, shall open the ballot box of the candidate shown at serial number one in the list of contesting candidates, count the votes and record the total number of votes secured by such candidate in the Register of Proceedings. Similar process of counting shall be followed in seriatim in the case of all the remaining contesting candidates:

Provided that the authorised officer shall reject a ballot paper:—

- (i) if it bears any mark or writing by which the elector can be identified; or
- (ii) if it is a spurious ballot paper; or
- (iii) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (iv) if it bears a serial number and design, different from the serial number and design authorised for use in the Nyaya Panchayat Election:

Provided further that the ballot paper so rejected shall be endorsed with words 'rejected' and signed by the authorised officer on the front of the ballot paper.

(2) After counting of votes of all the contesting candidates for a seat is completed, the name of the candidate securing the largest number of votes shall be recorded in the Register of Proceedings as having been duly elected as a Nyaya Panch, alongwith the number of the seat. Thereafter, the authorised officer shall announce the declaration of result. If equality of votes is found to exist between candidates, the election will be decided by lot and result declared accordingly.

25. (1) The authorised officer, after completion of election, shall seal in separate covers, the unused ballot papers, the candidate-wise used ballot papers, i.e. valid and rejected, the working copy of the electoral roll, a diary of the authorised officer of any special incidents noticed by him during the election of Nyaya Panchayat on the date of meeting, ballot paper account, and any other papers as may be directed by the Deputy Commissioner.

(2) All the papers referred to in sub-rule (1) alongwith a copy of the proceedings of the meeting shall be secured properly by the authorised officers for intact delivery to the Deputy Commissioner or any other officer appointed by him for the purpose, against proper receipt.

26. As soon as the Deputy Commissioner receives the copy of the proceedings prescribed under rule 15, a notification of the names of all the elected Nyaya Panches shall be issued by him for the information of the general public. A copy of such a notification shall be endorsed to the Director of Elections (Local Bodies), Director of Panchayati Raj, and the Pradhan of the Gram Panchayat concerned, and to such other quarters as the Deputy Commissioner may consider appropriate.

PART IV

CONVENING OF MEETING FOR THE ELECTION OF SARPANCH
AND NAIB-SARPANCH

27. As soon as the names of the elected Nyaya Panches are notified, the officer appointed by the Deputy Commissioner for this purpose shall convene under his chairmanship the meeting and shall administer oath/affirmation to the elected Nyaya Panches as required under section 197 of the Act:

Adminis-
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th to the elec-
ted Nyaya
Panches.

Provided that no such meeting shall be held unless not less than 48 hours' notice for holding such a meeting has been given to all the elected Nyaya Panches by its delivery at their ordinary place of residence and such a notice shall specify the place, date and time for holding such a meeting:

Provided further that if any elected Nyaya Panch has not been administered the oath/affirmation in the above meeting owing to his absence, such a Nyaya Panch shall enter upon his office as Nyaya Panch only after an oath/affirmation is administered to him by the Sarpanch or in his absence by the Naib-Sarpanch in the subsequent meeting of the Nyaya Panchayat.

28. (1) After the oath/affirmation under rule 27 has been administered and at least five Nyaya Panches are present in this special meeting the officer so appointed under rule 27 by the Deputy Commissioner, shall preside over the meeting and invite proposals for the election of Sarpanch or Naib-Sarpanch, in the same manner as laid down under rules 16 to 18 of these rules:

Election of
Sarpanch
and Naib-
Sarpanch.

Provided that the officer presiding over the meeting shall first invite proposals for the office of the Sarpanch and complete the elections and thereafter invite proposals and hold elections for the office of Naib-Sarpanch.

(2) If after inviting proposals it is found:—

- (i) that there is only one validly proposed candidate for the office of the Sarpanch or Naib-Sarpanch as the case may be, the officer presiding over the meeting shall declare elected such candidate for the office of the Sarpanch or Naib-Sarpanch, as the case may be;
- (ii) that there are two or more candidates for the office of Sarpanch or Naib-Sarpanch as the case may be, the officer presiding over the meeting shall prepare a list of contesting candidates and proceed for holding the elections in accordance with the manner laid down in rules 20 to 25 of these rules:

Provided that the functions assigned to an authorised officer in rules 16 to 18 referred to in sub-rule (1) and rules 20 to 25 referred to in sub-rule (2) shall be performed by the officer appointed by the Deputy Commissioner under rule 27:

Provided further that if five Nyaya Panches are not present in this special meeting, no election of Sarpanch or Naib-Sarpanch shall be held and the officer appointed for the purpose shall adjourn the meeting and take steps for holding a second meeting in which a quorum of 3 Nyaya Panches shall be required for holding election for the office of Sarpanch or Naib-Sarpanch.

(2) After the election for the office of the Sarpanch or Naib-Sarpanch is completed in the meeting fixed for the purpose, the officer appointed to

preside over the meeting shall sign the proceedings recorded in the register and send a copy of the same to the Deputy Commissioner.

29. As soon as the Deputy Commissioner receives the copy of the proceedings prescribed under sub-rule (2) of rule 28, a notification of the names of elected Sarpanch and Naib-Sarpanch shall be issued by him for the general information of the public. A copy of such a notification shall be endorsed to the Director of Elections (Local Bodies), Director of Panchayati Raj, and the Nyaya Panchayat concerned, and to such other quarters as the Deputy Commissioner may consider appropriate.

PART V

GENERAL

30. When a vacancy occurs of a Nyaya Panch/Naib-Sarpanch/Sarpanch by death, resignation or removal and a new Nyaya Panch/Naib-Sarpanch/Sarpanch has to be elected in accordance with the provisions of section 201 of the Act, the Deputy Commissioner shall arrange to hold such election in the manner as prescribed in these rules for a general election as soon as may be convenient, after the occurrence of the vacancy.

31. The Nyaya Panchayat elections shall be held under the superintendence and control of the Director of Elections (Local Bodies), Himachal Pradesh. He shall issue directions in this behalf as he may consider appropriate. In case there is any doubt or dispute regarding interpretation of these rules, the decision of the Director of Elections (Local Bodies), Himachal Pradesh, shall be final.

32. (1) The Deputy Commissioner or any other officer appointed by him for this purpose, shall keep in safe custody the packets of unused ballot papers, the packets of used ballot papers whether valid or rejected, and all other papers relating to elections. While in the custody of the Deputy Commissioner or the person appointed by him:—

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers valid or rejected; and
- (c) the packets of marked copy of the electoral roll;

shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of the prescribed authority for election disputes.

(2) All other papers relating to the election shall be open to public inspection and any person may apply for such an inspection or supply of certified copy thereof on payment of a fee at the same rate as is charged in Himachal Pradesh for the inspection of documents forming part of a record of a case dealt with by a Revenue Officer, or the supply of a copy of an order by a Revenue Officer, as the case may be, and such copies shall be supplied in accordance with the procedure to be followed for a similar application in respect of a case dealt with by a Revenue Officer.

33. The packets of unused ballot papers, the packets of used ballot papers whether valid or rejected and all other papers relating to the elections shall be retained in safe custody until the expiry of one year from the date of the notification of the result of election and thereafter be disposed of under the orders of Deputy Commissioner in such a manner as he may deem fit:

Provided that if an election dispute has not been decided during the aforesaid period, the packets and other papers referred to in the rule shall not be destroyed unless the dispute is finally decided.

34. In the meeting of the Panches of the Gram Panchayat or of the Nyaya Panches of the Nyaya Panchayat, no other person except the following, shall be allowed inside the meeting hall during the conduct of elections of Nyaya Panches, Sarpanch and Naib-Sarpanch:—

- (a) persons who are authorised to cast their votes;
- (b) necessary staff as may be appointed by the authorised officer to assist him for the conduct of elections;
- (c) persons authorised by the Director of Elections (Local Bodies), or the Deputy Commissioner; and
- (d) any public servant on duty in connection with the conduct of elections.

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PART VI

ELECTION PETITIONS

35. (1) The election petition under section 253 of the Act may be presented to the Deputy Commissioner by any member of the concerned Gram Sabha. The time limit for the presentation of petition relating to the disputes of election of Nyaya Panches/Naib-Sarpanches/Sarpanches shall be 30 days and will be reckoned from the date of notification under rule 26 or rule 29, as the case may be.

(2) The petitioner shall enclose with the petition copies of the petition and of its enclosures equal to the number of respondents.

36. (1) The petitioner shall set forth in the petition all the grounds on which the election is challenged.

(2) An affidavit in support of the correctness of the contents and statements made in the petition duly sworn in before a Magistrate or an Oath Commissioner, shall also be enclosed with the petition.

37. At the time of presenting an petition, the petitioner shall deposit a sum of Rs. 100 as security money in the Government Treasury or Sub-treasury under the appropriate head of account in the name of the Deputy Commissioner to whom the petition is presented, or cause to be presented in order to meet the cost that may become payable after deciding finally the petition by the Deputy Commissioner.

38. (1) If the provisions of rules 35 to 37 of these rules have not been complied with, the Deputy Commissioner shall pass an order dismissing the petition and such orders shall be final:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

39. (1) A petition may be withdrawn by the petitioner only by leave of the Deputy Commissioner to whom the petition has been presented.

(2) When an application for withdrawal is made, a notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published by being posted at the office of the Deputy Commissioner and at the office of the Gram Panchayat concerned.

(3) No application for withdrawal shall be granted if in the opinion of the Deputy Commissioner, such application has been induced by any bargain or consideration which ought not to be allowed.

(4) If the application is granted:—

- (a) the petitioner shall where the application has been made to the Deputy Commissioner be ordered to pay the costs of the

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respondent theretofore incurred or such portion thereof as the Deputy Commissioner may think fit;

(b) notice of withdrawal shall be published by being posted at the office of the Deputy Commissioner and at the office of the Gram Panchayat concerned.

Place and
procedure
of enquiry.

40. (1) The place of enquiry shall be the headquarters of the Deputy Commissioner:

Provided that the Deputy Commissioner concerned may, on being satisfied that special circumstances exist rendering it desirable that the enquiry should be held elsewhere, fix some other convenient place for this purpose.

(2) Notice of the time and place of enquiry shall be given to the parties not less than seven days before the first date of the hearing.

(3) Subject to the provisions of the Act and the rules, contained in this chapter, where an petition has not been dismissed under rule 38 of these rules, every petition be enquired into expeditiously in accordance with the procedure applicable under the Code of Civil Procedure, 1908, for the trial of suits.

Orders of
the Deputy
Commis-
sioner shall
be final.

41. (1) As provided under section 253 of the Act, the orders of the Deputy Commissioner on an petition relating to the disputes of election of Nyaya Panch/Najib-Sarpanch/Sarpanch, shall be final and shall not be questioned in any Court of Law.

(2) When an application of a Nyaya Panch/Nyaya Sarpanch/Sarpanch has been set-aside under the orders of the Deputy Commissioner under sub-rule (1), fresh election shall be held in accordance with the procedure prescribed for a casual vacancy under rule 30.

Repeal.

42. The rules relating to election of Nyaya Panchayat framed under the Himachal Pradesh Panchayati Raj Act, 1952, are hereby repealed:

Provided that any direction given or orders made or action taken under the rules so repealed shall be deemed to have been made under the corresponding provisions of these rules to the extent it is not in consistent with these rules.

FORM I

(See rule 5)

Electoral Roll for Election to.....Nyaya Panchayat.
Gram Panchayat.....(Name) of.....Block
in..... District, Himachal Pradesh.

Serial Number	Name of Elector (Panch)	Whether Elected or Co-opted. If elected, No. and Name of Constituency (Ward)
1	2	3

Prepared by:

Signatures.
Name alongwith
designation.

Authenticated:

Signatures.
Name with designation of the
Officer.

By order,
L. TOCHHAWNG,

Secretary (Elections) to the Government of Himachal Pradesh.

उप-नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला-3 द्वारा मुद्रित तथा प्रकाशित